

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 24096
Docket Number MW-23902

Joseph A. Sickles, Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employes
(St. Louis-San Francisco Railway Company

STATEMENT OF CLAIM: "Claim of the System Committee of the Brotherhood that:

(1) The Carrier violated the Agreement when it assigned junior Machine Operator B. Britt to perform overtime service on August 25, 26 and 27, 1979 instead of calling and using Machine Operator J. C. McMorris who was senior, available and willing to perform that service (System File B-1733/D-9937).

(2) Machine Operator J. C. McMorris shall be allowed eighteen and one-half (18-1/2) hours of pay at his time and one-half rate because of the aforesaid violation."

OPINION OF BOARD: In its submission to this Board the Organization asserts that the Claimant was senior to certain individuals who performed overtime service on claim dates.

The Board has considered the dispute as it was handled on the property and we have noted significant confusion as to the precise claim presented. In fact, the Carrier raised the issue that it was not certain what rights the Claimant was asserting and what position he should have been filling.

Inasmuch as the record is rather imprecise concerning the asserted violation and because the Organization has the burden in this case we have no alternative but to dismiss the case for failure of proof.

FINDINGS: The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds and holds:

That the parties waived oral hearing;

That the Carrier and the Employes involved in this dispute are respectively Carrier and Employes within the meaning of the Railway Labor Act, as approved June 21, 1934;

That this Division of the Adjustment Board has jurisdiction over the dispute involved herein; and

That the claim be dismissed.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest: Acting Executive Secretary
National Railroad Adjustment Board

By Rosemarie Brasch
Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 5th day of January 1983.

